

LAW OFFICE
THOMAS F. MCFARLAND, PC.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

230668

THOMAS F. MCFARLAND

July 22, 2011

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings

JUL 22 2011

Part of
Public Record

Re: Docket No. EP 711, *Petition For Rulemaking To Adopt Revised Competitive Switching Rules*

Dear Ms. Brown:

Hereby transmitted is a Reply In Support Of Petition For Rulemaking for filing with the Board in the above referenced matter.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Interstate Asphalt Corp.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

PETITION FOR RULEMAKING TO)
ADOPT REVISED COMPETITIVE) DOCKET NO. EP 711
SWITCHING RULES)

REPLY IN SUPPORT
OF PETITION FOR RULEMAKING

INTERSTATE ASPHALT CORP.
PETER WITTICH, President
1041 S.E. 17th Street
Fort Lauderdale, FL 33316

Replicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 (fax)
mcfarland@aol.com

Attorney for Replicant

DUE DATE: July 27, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

PETITION FOR RULEMAKING TO)
ADOPT REVISED COMPETITIVE) DOCKET NO. EP 711
SWITCHING RULES)

REPLY IN SUPPORT
OF PETITION FOR RULEMAKING

Pursuant to 49 C.F.R. § 1104.13(a), INTERSTATE ASPHALT CORP. (IAC) hereby
replies in support of a Petition for Rulemaking (Petition) filed by NATIONAL INDUSTRIAL
TRANSPORTATION LEAGUE (NITL) on July 7, 2011.

IAC is a closely-held asphalt marketing company that supplies performance grade asphalt
products to the Chicago and Midwest regions. IAC serves its customers through a strategically
located network of terminals operated by corporations commonly owned by the owner of IAC,^{1/}
i.e.:

<u>Terminal Location</u>	<u>Operator</u>
Chicago, IL	Ameropan Oil Corporation (Ameropan)
Chicago, IL	Bell Oil Terminal, Inc. (Bell)
Peoria, IL	Peoria River Terminal, Inc. (PRT)
Lansing, MI	Lansing Asphalt Terminal Co. (LATCO)
Manistee, MI	Michigan Asphalt Terminals Company LLC (MATCO)

Those terminals have a storage capacity of over 100,000 liquid tons of asphalt. IAC and
its affiliated companies are certified to supply asphalt by the State Departments of Transportation

^{1/} Michigan Asphalt Terminals Company LLC is a joint venture of which IAC is the
managing member.

of Illinois, Indiana, Michigan, Ohio, and the Combined State Border Group that includes Iowa and Wisconsin.

IAC's terminals receive liquid asphalt in tank cars from distant origins in the Western United States and Canada for which rail is the only logistically and economically feasible mode of transportation. Reasonable rail rates and practices and adequate rail service are vital to the success of IAC's business.

An example of serious injury from the absence of rail competition illustrates why IAC strongly supports the Petition filed by NITL. There are many additional instances that would be presented in evidence and argument that IAC would file in a proceeding to consider the regulations proposed by NITL.

The Ameropan terminal in Chicago is captive to Canadian National Railway Company (CN). In 2007, CN experienced a strike that prevented it from providing rail transportation in Canada. During the strike period, Ameropan received shipments that were transported in Canada by Canadian Pacific Railway Company (CP) to a point of interchange with CN in Chicago. CN transported the shipments for the short distance between the CP-CN interchange and Ameropan's terminal. CN assessed a switching charge of \$655 per car for that service.

When the strike ended, CN increased that switching charge to \$1,298 per car, an increase of nearly 100 percent! That action was taken for the sole purpose of preventing Ameropan from receiving shipments via CP after settlement of the strike. The unfairness of that anticompetitive behavior is underscored by the switching charge of \$399 per car that PRT pays at Peoria where

rail carriers compete for its traffic^{2/} -- less than a third of the amount assessed by CN!

When the Board institutes a proceeding to consider adoption of the regulations proposed by NITL, Ameropan will provide evidence of radical line-haul rate increases assessed by CN at the same time that CN reduced Ameropan's service in half, from 6 to 3 days per week!

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, IAC provides enthusiastic support for the Petition filed by NITL. The Board should institute a proceeding to consider that Petition, providing an opportunity for all concerned to submit evidence and argument on the subject matter.

Respectfully submitted,

PETER WITTICH, President
INTERSTATE ASPHALT CORP.
1041 S.E. 17th Street
Fort Lauderdale, FL 33316

Replicant

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^{2/} PRT's terminal at Peoria is served by Union Pacific Railroad Company, Tazewell & Peoria Railroad, Inc., and Toledo, Peoria and Western Railway Corporation.

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2011, I served the foregoing document, Reply In Support Of Petition For Rulemaking, on Karyn A. Booth, Thompson Hine LLP, 1920 N Street, N.W., Suite 800, Washington, DC 20036 by e-mail to *karyn.booth@thompsonhine.com*, and Robert G. Szabo, Exec. Dir. & Counsel, Consumers United For Rail Equity, 1050 Thomas Jefferson Street, N.W., 6th fl., Washington, DC 20007, by e-mail to *rgs@vnf.com*.

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